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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,834	11/19/2003	Dwight E. Nickel	33059	7068

7590 06/01/2005

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EXAMINER

PETRAVICK, MEREDITH C

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/716,834

Applicant(s)

NICKEL ET AL.

Examiner

Meredith C Petravick

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-8, 11-14, 21-23 and 25-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-8, 11-14 and 26-31 is/are allowed.
- 6) ☒ Claim(s) 21 and 22 is/are rejected.
- 7) ☒ Claim(s) 23 and 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The finality of the last office action is withdrawn.
2. The indicated allowability of claim 21 is withdrawn in view of the newly discovered reference Knurr et al. 5,022,219. Rejections based on the newly cited reference follow.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 21 rejected under 35 U.S.C. 103(a) as being unpatentable over Barthel et al., previously cited, in view of Knurr et al. 5,022,219.

Barthel et al. discloses a machine for conditioning crops including:

- a first pair of oppositely rotatable rolls (4), with rolls that are relatively movable toward and away from one another
- A second pair of oppositely rotatable rolls (5), with rolls that are relatively movable toward and away from one another
- A tension mechanism coupled to both pairs of rolls (Column 3, lines 52-59)

The tension mechanism includes a tension spring from each pair of rotatable rolls. However, the tension mechanism in Knurr et al. does not include a hydraulic cylinder in a hydraulic circuit as claimed.

Like Barthel et al., Knurr et al. discloses a tension mechanism for a pair of rolls in a crop-conditioning machine. The tensions mechanism includes a spring. Unlike Barthel et al., Knurr et al. teaches providing a hydraulic cylinder (136) in addition to the spring in the tension mechanism. The hydraulic cylinder with a hydraulic circuit allows the tensioning force to be adjusted (Column 1, lines 54 – Column 2, lines 11). Knurr et al. expressly suggests that this mechanism can be applied to other conditioners where a spring applies a biasing force (Column 2, lines 12-19).

Given the suggestion in Knurr et al, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the tension mechanism of Barthel et al. with a hydraulic cylinder and circuit for each spring as taught in Knurr et al.

Regarding claim 22, the hydraulic circuit in Knurr et al. includes a valve 162. Each roll in Barthel et al. is capable of being controlled independently since there are two different springs and in the combination they would each have their own valve.

Allowable Subject Matter

5. Claims 4-8, 11-14 and 26-31 are allowed.
6. Claims 23 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments with respect to claim 21-22 have been considered but are moot in view of the new ground of rejection.


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Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meredith C Petravick whose telephone number is 571-272-6995. The examiner can normally be reached on M-T 8:00 a.m.- 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Meredith C Petravick
Primary Examiner
Art Unit 3671

May 27, 2005